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Sunset Review
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October 15, 2004

MEMORANDUM TO: Jeffrey A. May
Acting Assistant Secretary, Import Administration

FROM: Ronald K. Lorentzen
Acting Director, Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of
the Antidumping Duty Order on Stainless Steel Sheet and Strip in
Coils from Japan; Final Results

Summary

We have analyzed the substantive responses of the interested parties in the sunset review of the antidumping duty order covering stainless steel sheet and strip in coils (“SSSSC”) from Japan. We recommend that you approve the positions we have developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping
 - A. Weighted-average dumping margin
 - B. Volume of imports
2. Magnitude of the margin likely to prevail
Margins from investigation

History of the Order

On June 8, 1999, the Department of Commerce (“Department”) published its final affirmative determination of sales at less than fair value (“LTFV”) in the *Federal Register* with respect to imports of SSSSC from Japan. *See Notice of Final Determination of Sales at Less Than Fair Value: SSSSC from Japan, Part II*, 64 FR 30574 (June 8, 1999) amended at 64 FR 40565 (July 27, 1999). As a result, on July 27, 1999, the Department published in the *Federal Register* an antidumping duty order on SSSSC from Japan. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; SSSSC from*

Japan, 64 FR 40565 (July 27, 1999). In the amended final determination, the Department determined weighted-average dumping margins, as follows:

Kawasaki Steel Corporation (“Kawasaki”)	40.18 percent
Nippon Steel Corporation (“Nippon Steel”)	57.87 percent
Nisshin Steel Co., Ltd. (“Nisshin Steel”)	57.87 percent
Nippon Yakin Kogyo (“Nippon Yakin”)	57.87 percent
Nippon Metal Industries (“NMI”)	57.87 percent
All Others	40.18 percent

Since the issuance of the antidumping order, the Department has conducted one administrative review with respect to Kawasaki. *See Notice of Final Results of Antidumping Duty Administrative Review: SSSSC from Japan*, 67 FR 6495 (February 12, 2002). In that administrative review, the Department determined a dumping margin of 1.92 percent for Kawasaki. *Id.*

The Department completed three changed circumstance antidumping duty reviews regarding imports of SSSSC from Japan since the issuance of the order.¹ Pursuant to the changed circumstance reviews, the order was revoked in part with regard to stainless steel welding electrode strips, stainless steel razor blade, medical surgical blade, industrial blades, and certain stainless steel lithographic sheet. *Id.*

On June 1, 2004, the Department published the notice of initiation of the sunset review of the antidumping duty order on SSSSC from Japan pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”).² The Department received a Notice of Intent to Participate from the domestic interested parties Nucor Corporation; Allegheny Ludlum Corporation; North American Stainless; the United Steelworkers of America, AFL-CIO; the local 3303 United Auto Workers; and Zanesville Armco Independent Organization, Inc. (collectively “the domestic interested parties”) within the deadline specified in section 351.218(d)(1)(i) of the Department’s Regulations (“Sunset Regulations”). The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act, as domestic manufacturers of SSSSC or certified unions whose workers are engaged in the production of SSSSC in the United States. We received a complete substantive response collectively from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department received no response from the respondent interested parties. As a result, pursuant to section 751(c)(5)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day)

¹ *SSSSC from Japan: Final Results of Changed Circumstance Antidumping Duty Review and Determination to Revoke Order in Part*, 65 FR 17856 (April 5, 2000); *SSSSC from Japan: Final Results of Changed Circumstance Antidumping Duty Review and Determination to Revoke Order in Part*, 65 FR 54841 (September 11, 2000); *SSSSC from Japan: Final Results of Changed Circumstance Antidumping Duty Review and Determination to Revoke Order in Part*, 65 FR 64423 (October 27, 2000).

² *Initiation of Five-Year (“Sunset”) Reviews*, 69 FR 30874 (June 1, 2004).

sunset review of this order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (“ITC”) the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

The domestic interested parties contend that revocation of this antidumping duty order would likely lead to a continuation or recurrence of dumping by the Japanese producers of the subject merchandise due to continued dumping. *See* Substantive Response of the Domestic Interested Parties (“Domestic Response”) (July 1, 2004) at 45. The domestic interested parties also contend that the respondent interested parties would need to continue to price unfairly in order to sell in the United States as well as increase unfair pricing to sell in higher volumes. *Id.* at 46. The domestic interested parties point out that the Japanese industry exported to the United States 93,688 tons of SSSSC in 1998; however, upon imposition of the order, the Japanese SSSSC imports substantially decreased to 5,503 tons in 2003. *Id.* at 52. The domestic interested parties argue that the order acts as a restraint against unfair pricing as demonstrated by the huge decline in Japanese exports of SSSSC once the order was put in place. *Id.* Consequently, the domestic interested parties state that the Japanese producers rely on continued dumping to sustain their access to the U.S. market and cannot export commercially significant volumes to the United States when such dumping is neutralized by antidumping duties. *Id.*

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”), specifically the Statement of Administrative Action (“SAA”), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”), and the Senate Report, S. Rep. No. 103-412 (1994) (“Senate Report”), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. *See Policies regarding the Conduct of the Five-Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders, Policy Bulletin 98-3 (“Sunset Policy Bulletin”),* 63 FR 18871 (April 16, 1998). The Department clarified that determinations of likelihood will be made on an order-wide basis. *See Sunset Policy Bulletin* at section II.A.2. In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the

issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. See *Sunset Policy Bulletin* at section II.A.3.

Consistent with the *Sunset Policy Bulletin*, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where, *inter alia*, dumping continued at any level above *de minimis* after the issuance of the order. The Department has conducted an administrative review since issuance of the order in which it found that dumping continued at levels above *de minimis*. See *Notice of Final Results of Antidumping Duty Administrative Review: SSSSC from Japan*, 67 FR 6495 (February 12, 2002). In addition, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order. See *Sunset Policy Bulletin* at section II.A.1. Using statistics provided by the ITC Dataweb (see attached), the Department finds that imports have significantly decreased after the issuance of the order. Given that dumping has continued at levels above *de minimis* since the imposition of the order, while import volumes declined, the Department determines that dumping would likely continue or recur if the order were revoked.

2. Magnitude of the Margin Likely to Prevail:

Interested Party Comments

In its substantive response, the domestic interested parties argue that the antidumping duty margins from the investigation are the margins that will likely prevail if the order were revoked in accordance with the SAA and the *Sunset Policy Bulletin*. See Domestic Response at 58. Accordingly, they contend that the Department should inform the ITC that the following margins for Japanese companies covered by the order will likely prevail if revocation occurs:

Kawasaki Steel Corporation (“Kawasaki”)	40.18 percent
Nippon Steel Corporation (“Nippon Steel”)	57.87 percent
Nisshin Steel Co., Ltd. (“Nisshin Steel”)	57.87 percent
Nippon Yakin Kogyo (“Nippon Yakin”)	57.87 percent
Nippon Metal Industries (“NMI”)	57.87 percent
All Others	40.18 percent

Id. at 59.

Department's Position

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the ITC the company-specific margin from the investigation for each company. For companies not investigated specifically or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the “All Others” rate from the investigation. Exceptions to this policy include the use of a more recently calculated margin, where appropriate. See *Sunset Policy Bulletin* sections II.B.2 and 3. Further, in section II.B.1. of the *Sunset Policy Bulletin*, the Department discussed the legislative history related to the selection of the magnitude of the margin likely to prevail and clarified the preference for

selecting a margin from the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.

After considering the weighted-average dumping margins determined in the investigation and subsequent review, the Department determines that it is appropriate to report to the ITC the rates from the amended final determination because they are the only calculated rates that reflect the behavior of companies without the discipline of the order. Therefore, we will report to the ITC the rates as published in the amended final determination, as listed in the next section.

Final Results of Review

We determine that revocation of the antidumping duty order on SSSSC from Japan would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
Kawasaki Steel Corporation	40.18 percent
Nippon Steel Corporation	57.87 percent
Nisshin Steel Co., Ltd.	57.87 percent
Nippon Yakin Kogyo	57.87 percent
Nippon Metal Industries	57.87 percent
All Others	40.18 percent

Recommendation

Based on our analysis of the substantive response received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register*.

AGREE ___X___

DISAGREE _____

ORIGINAL SIGNED

Jeffrey A. May
Acting Assistant Secretary
for Import Administration

10/15/04

(Date)